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In re Application of: FREDERIKS, Guido :
U.S. Application No.: 10/572,884 : COMMUNICATION
PCT No.: PCT/IB2004/051819 :
Int'l Filing Date: 22 September 2004 :
Priority Date: 23 September 2003 :
Attorney's Docket No.: US03 0356 US2 :
For: METHOD AND APPARATUS FOR :
MASTER/SLAVE DIRECT :
MEMORY ACCESS HARDWARE :
AND SOFTWARE CONTROL :

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371.

BACKGROUND

On 23 September 2004, applicant filed international application PCT/IB2004/051819. The application claimed a priority date of 23 September 2003, and it designated the United States. On 31 March 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 23 March 2006.

On 20 March 2006, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee. The submission requested that all correspondence herein be directed to the address associated with customer number 24738.

On 24 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497, the surcharge for filing the declaration later than thirty months after the priority date, and additional claims fees were required. This Notification was mailed to the correspondence address of record (i.e., customer number 24738).

On 30 May 2007, the correspondence address of record herein was updated to the address associated with customer number 65913, set forth above.

The application file does not contain a timely response filed by applicant with respect to the Notification Of Missing Requirements mailed 24 January 2007.

On 15 January 2008, a courtesy copy of the previously mailed Notification Of Missing Requirements (Form PCT/DO/EO/905) was mailed to the new correspondence address of record. The courtesy copy was accompanied by a "Cover Letter For Resending Correspondence" that expressly stated the "time period for reply continues to run from the mail date of that Notice."

On 25 June 2008, the DO/EO/US mailed a second Notification Of Missing Requirements (Form PCT/DO/EO/905) again indicating that an oath or declaration in compliance with 37 CFR 1.497, the surcharge for filing the declaration later than thirty months after the priority date, and additional claims fees were required. This Notification was mailed to the new correspondence address of record (i.e., customer number 65913).

On 19 December 2008, applicant filed a response to the second Notification Of Missing Requirements mailed 25 June 2008. This response included payment of a four-month extension fee, payment of the required surcharge and extra claims fees, and a petition for acceptance of the application without an executed declaration pursuant to 37 CFR 1.47.

DISCUSSION

Applicant's failure to file a timely response to the properly-addressed Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 24 January 2007 resulted in this application becoming abandoned at midnight on 24 March 2007.

Because the application was already abandoned, the second Notification Of Missing Requirements mailed 25 June 2008 was issued in error and is hereby appropriately vacated.

The materials filed by applicant on 19 December 2008, including the petition under 37 CFR 1.47, were submitted well after the application was abandoned and cannot be treated as a proper and timely response to the Notification Of Missing Requirements mailed 24 January 2007. The petition under 37 CFR 1.47 has therefore not been considered on the merits.

The fees filed by applicant in response to the improperly mailed second Notification Of Missing Requirements, including the four-month extension fee, will be refunded to Deposit Account No. 50-4109.

CONCLUSION

This application is **ABANDONED** for failure to file a timely and proper response to the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 24 January 2007.

The second Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 25 June 2008 was issued in error and is hereby **VACATED**.

The surcharge payment, excess claims fee, and extension fee filed by applicant on 19 December 2008, submitted as they were in response to an improperly issued Notification Of Missing Requirements, will be refunded to applicant. It is noted that any subsequent petition for revival filed herein must be accompanied by a proper response to the Notification of Missing Requirements, including re-payment of the required surcharge and extra claims fees.

The application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application is abandoned for failure to file a timely response to the Notification Of Missing Requirements mailed 24 January 2007.



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